REMARKS

The Office Action dated January 22, 2003 has been fully considered by the Applicant. Based on the Applicant's amendment of October 21, 2002, the Examiner has now dropped his initial rejections based on the Miller et al. and McGinnis et al. patent references. The Examiner has now cited a new reference Wilson (U.S. Patent No. 2,922,501) pertaining to Claims 3 and 6 and he cited Wilson in view of Miller et al. pertaining to Claims 1 and 4.

The rejection of the claims, as now amended, is respectfully traversed. The Examiner, on page 3 of the Office Action, states that:

> "Wilson (figure 1) shows a mobile communication tower having a trailer having a chassis (28) mounted on two or more wheels (10), a hitch (12), a plurality of chassis guy wire (54, 56) attaching points and a plurality of leveling mechanisms (26) wherein the chassis having a plurality of pivotally mounted outriggers (48). . ."

While at first it may appear that Wilson has outrigger arms 48 as set forth by the Examiner, upon close examination of Wilson, it is apparent that the outrigger arms 48 are **not** a part of the trailer or chassis. Stated in other words, Wilson does not have outrigger arms that are mounted on a chassis trailer. In Wilson, the trailer is one structure while the substructure from which the outrigger arms extend is a separate structure. As seen in Exhibit A submitted herewith, a photocopy of the cover page of U.S. Patent No. 2,922,501 to Wilson is submitted. The trailer and its components are highlighted in one color while the substructure including the outrigger arms are highlighted in another color.

As now clearly set forth in Claims 1, 3, 4 and 6, the outriggers are defined as each pivotally mounted on the chassis.

While certain guy lines in Wilson are wired to the trailer or chassis, the outrigger arms 48 relied on by the Examiner form part of the substructure and are not a part of the trailer or chassis. Guying to a separate structure is similar to guying to the ground which is admittedly in the prior art.

In summary, Miller et al. does not anticipate Claims 3 or 6 as it does not include all of the limitations of the claims as amended.

Moreover, the rejection of Claims 1 and 4 as unpatentable over Wilson in view of Miller et al. is respectfully traversed. Since Wilson is not applicable for the reasons set forth above, Miller et al. does not anticipate the invention for the reasons set forth in the prior amendment and tacitly acknowledged by the Examiner. There is no incentive to combine the teachings of the drilling rig of Wilson with the cellular antenna tower of Miller. Additionally, while Miller may be deemed to be a portable device, it is not a telescoping, mobile device.

It is improper to combine references to achieve the invention under consideration unless there is some incentive or suggestion in the references to do so.

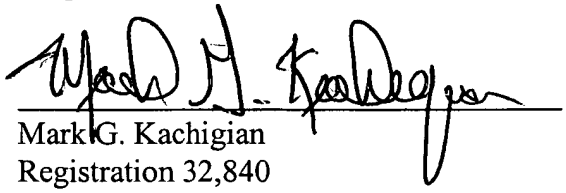
The Court of Appeals for the Federal Circuit has repeatedly held that under Section 103, teachings from various references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F2d 1572, 221 USPQ 929 (CAFC 1984).

> Stated another way:
>
> > It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps...The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 18 USPQ2d 1885 (CAFC 1991).

The Examiner is required to follow the law as set forth by the Federal Circuit. In summary, the combination of patents to achieve the claims of the present invention is untenable.

It is believed the foregoing is fully responsive to the outstanding Office Action. It is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is respectfully requested.

Respectfully submitted,



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